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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

RENO MAY, an individual; ANTHONY MIRANDA, an individual; ERIC HANS, an individual; GARY BRENNAN, an individual; OSCAR A. BARRETTO, JR., an individual; ISABELLE R. BARRETTO, an individual; BARRY BAHRAMI, an individual; PETE STEPHENSON, an individual; ANDREW HARMS, an individual; JOSE FLORES, an individual; DR. SHELDON HOUGH, DDS, an individual; SECOND AMENDMENT FOUNDATION; GUN OWNERS OF AMERICA; GUN OWNERS FOUNDATION; GUN OWNERS OF CALIFORNIA, INC.; THE LIBERAL GUN CLUB, INC.; and CALIFORNIA RIFLE & PISTOL ASSOCIATION, INCORPORATED,

Plaintiffs,

v.

ROBERT BONTA, in his official capacity as Attorney General of the State of California, and DOES 1-10,

Defendants.

Case No.: 8:23-cv-01696 CJC (ADSx)

**MAY PLAINTIFFS’
 EVIDENTIARY OBJECTIONS TO
 AND MOTION TO STRIKE THE
 SUR-REBUTTAL TESTIMONY
 OF DEFENDANT’S EXPERT
 WITNESSES:**

- 1) ADAM WINKLER,
- 2) JOSHUA SALZMANN,
- 3) DR. BRENNAN RIVAS,
- 4) LEAH GLASER,
- 5) MARY FISSELL,
- 6) PATRICK CHARLES, AND
- 7) HOLLY BREWER

Hearing Date: December 20, 2023
 Hearing Time: 1:30 p.m.
 Courtroom: 9 B
 Judge: Hon. Cormac J. Carney

TO THIS HONORABLE COURT:

Plaintiffs Reno May, Anthony Miranda, Eric Hans, Gary Brennan, Oscar A. Barretto, Jr., Isabelle R. Barretto, Barry Bahrami, Pete Stephenson, Andrew Harms, Jose Flores, Dr. Sheldon Hough, DDS, The Second Amendment Foundation, Gun Owners of America, Inc., Gun Owners of California, Inc., The Liberal Gun Club, Inc., and California Rifle & Pistol Association, Incorporated, hereby object to the entirety of each of the *sur*-rebuttal declarations filed in support of Defendant's opposition to the preliminary injunction, such declarations authored by (1) Adam Winkler (Dkt 38), (2) Joshua Salzman (Dkt 37), (3) Dr. Brennan Rivas (Dkt 36), (4) Leah Glaser (Dkt 35), (5) Mary Fissell (Dkt 34), (6) Patrick Charles (Dkt 33), and (7) Holly Brewer (Dkt 32). Such objections are made on the following grounds:

The *sur*-rebuttal declarations were filed in violation of C.D. Cal. Local Rule 7-9 (time for presenting opposing briefs and evidence on motions), and 7-10 (no response to reply permitted absent court permission); *see also Gebretsadike v. Travelers Home and Marine Ins. Co.*, 103 F. Supp. 3d 78, 86 (D.D.C. 2015.).

Mr. Cramer's declaration submitted on reply in direct response to the deluge of false, speculative, and irrelevant information presented by the Attorney General in opposition was not an invitation for the Attorney General to submit unapproved *sur*-reply evidence rebutting Mr. Cramer's declaration. *See Terrell v. Contra Costa Cnty.*, 232 Fed. App'x 626, 629 n.2 (9th Cir. 2007) (evidence presented in reply to opposition is not "new" when it is presented in direct response to opposition evidence), citing *In re ConAgra Foods, Inc.*, 302 F.R.D. 537, 559 (C.D. Cal. 2014) (same). Nor did the Attorney General seek the Court's permission before further using the substantial financial advantage of the State's treasury to pay experts for additional written opinions; additional opinions that not only further muddle the record, but which Plaintiffs now have no opportunity to address. *See C.D. Cal. L.R.* 7-9 & 7-10.

1 As Plaintiffs have the burden of persuasion as the moving party,
 2 consideration by the Court of this additional evidence without an opportunity for
 3 Plaintiffs to rebut and comment upon it denies them due process. *See generally*
 4 *Towery v. Brewer*, 672 F.3d 650, 657 (9th Cir. 2012). Plaintiffs move to strike
 5 these *sur*-rebuttal declarations in their entirety.

6 Plaintiffs further incorporate into these objections their prior objections made
 7 under, inter alia, Fed. R. Evid. 403 and 702 (Dkts 29-1, 29-5, 29-6, 29-7 & 29-14)
 8 as to the overall relevance and admissibility of any testimony of witnesses (1)
 9 Adam Winkler, (2) Joshua Salzmman, (3) Leah Glaser, and (4) Mary Fissell on the
 10 basis that their *sur*-rebuttal testimony is as irrelevant, lacking foundation, or
 11 otherwise inappropriate in informing the Court as were their declarations filed in
 12 opposition to the motion.

13 Dated: December 14, 2023

MICHEL & ASSOCIATES, P.C.

/s/ C.D. Michel

C.D. Michel
 Counsel for Plaintiffs

17 Dated: December 14, 2023

LAW OFFICES OF DON KILMER

/s/ Don Kilmer

Don Kilmer
 Counsel for Plaintiff The Second Amendment
 Foundation

CERTIFICATE OF SERVICE
IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Case Name: *May, et al. v. Bonta*
Case No.: 8:23-cv-01696 CJC (ADSx)

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

I am not a party to the above-entitled action. I have caused service of:

**MAY PLAINTIFFS' EVIDENTIARY OBJECTIONS TO AND MOTION TO
STRIKE THE *SUR*-REBUTTAL TESTIMONY OF DEFENDANT'S
EXPERT WITNESSES:**

- 1) ADAM WINKLER,
- 2) JOSHUA SALZMANN,
- 3) DR. BRENNAN RIVAS,
- 4) LEAH GLASER,
- 5) MARY FISSELL,
- 6) PATRICK CHARLES, AND
- 7) HOLLY BREWER

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Robert L. Meyerhoff, Deputy Attorney General
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Email: Robert.Meyerhoff@doj.ca.gov
Attorney for Defendant

I declare under penalty of perjury that the foregoing is true and correct.

Executed December 14, 2023.


Christina Castron